

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Jacqueline Ouzman	Art Unit :	
Serial No. :	10/586,558	Examiner :	
Filed :	July 19, 2006	Conf. No. :	6455
Title :	SYNTHESIS OF SPONGOSINE		

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**MAIL STOP PCT**

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PETITION UNDER 37 C.F.R. 1.47(b)

This is a petition to accept the application identified above pursuant to 37 C.F.R. 1.47(b) because the sole inventor, Dr. Jacqueline Ouzman, has not replied to a request to join the application. Biovitrum AB hereby petitions under 37 C.F.R. 1.47(b) to make this application on behalf of the inventor.

The last known address for Dr. Ouzman is as follows:

76 Nab Wood Crescent  
Shipley  
Bradford  
West Yorkshire BD18 4HY  
United Kingdom

As indicated by the enclosed Declaration of Dr. Neil Thornton of Reddie & Grose, copies of the application papers, including a complete copy of the patent specification, were forwarded to Dr. Ouzman on April 13, 2008 (see Exhibit A). A declaration was forwarded to Dr. Ouzman for her signature together with the application papers (see also Exhibit A). Dr. Ouzman has to date not replied to Dr. Thornton's request regarding the above-identified patent application (see Declaration of Dr. Thornton). As detailed in Dr. Thornton's declaration, Dr. Ouzman has been generally unwilling to sign numerous patent documents for her former employer, Cambridge Biotechnology Limited, without payment of a fee. It is my understanding that the request for

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I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: January 05, 2009

compensation in exchange for execution of the patent documents is not consistent with Dr. Ouzman's employment agreement with Cambridge Biotechnology Limited, and is therefore tantamount to a refusal to sign.

In view of the diligent efforts to obtain Dr. Ouzman's signature and her unwillingness to do so absent payment of a fee, it is respectfully requested that this application be accorded status under 37 C.F.R. 1.47(b).

The invention(s) disclosed in the present application were made during the course of Dr. Ouzman's employment by Cambridge Biotechnology Limited (a wholly-owned subsidiary of Biovitrum AB). Dr. Ouzman's employment contract with Cambridge Biotechnology Limited stated that all inventions made during the course of her employment belong to and are the absolute property of her employer and that she agreed to execute all instruments necessary for vesting all right title and interest to and in patents in the name of her employer (see Section 13 of Dr. Ouzman's redacted employment contract, enclosed as Exhibit B). Dr. Ouzman's employment contract evidences applicant's proprietary interest in the application and the inventor's agreement to assign all inventions to her employer.

This Petition is necessary in order to avoid irreparable harm, namely loss of rights to the invention(s) disclosed in the subject application. The present application is the U.S. national phase of international application number PCT/GB2005/000183, filed on January 19, 2005. The PCT application published as publication number WO2005/070947 on August 4, 2005. The filing of the present application is necessary to prevent loss of patent rights in view of the prior publication of the international counterpart of the present application.

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Attorney's Docket No.: 13425-0194US1 / BV-1092 US

The required fee under 37 C.F.R. 1.17(g) in the amount of \$200 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization.

Please apply any charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 13425-194US1.

Respectfully submitted,

Date: January 5, 2009

  
\_\_\_\_\_  
Jack Brennan  
Reg. No. 47,443

Fish & Richardson P.C.  
Citigroup Center  
52nd Floor  
153 East 53rd Street  
New York, New York 10022-4611  
Telephone: (212) 765-5070  
Facsimile: (877) 769-7945

# **EXHIBIT A**

**From:** Neil Thornton [Neil.Thornton@reddie.co.uk]  
**Sent:** Sunday, April 13, 2008 12:01 PM  
**To:** Jackie Ouzman  
**Subject:** Fwd: Biovitrum

**Attachments:** USSN 10598520 Declaration and Power of Attorney.pdf; USSN 10581545 Assignment.pdf; USSN 10581545 Declaration and Power of Attorney.pdf; USSN 10581545 Letter 9 October 2007.pdf; Ouzman PoA 4 January 2008.pdf; WO05084653A2.pdf; WO2005056571(A1).pdf; SE 0702697 Assignment.pdf; USSN 10598520 Assignment.pdf; USSN 61022933 Assignment.pdf; BV-1092 US Assignment.pdf; BV-1092 US Declaration.pdf; WO2005070947(A1).pdf



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Declaration and ...



USSN 10581545  
Assignment.pdf (...



USSN 10581545  
Declaration and ...



USSN 10581545  
Letter 9 October...



Ouzman PoA 4  
January 2008.pdf ...



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WO2005056571(A1)  
.pdf (2 MB)



SE 0702697



USSN 10598520



USSN 61022933



BV-1092 US



BV-1092 US



WO2005070947(A1

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Dear Dr Ouzman,

I write further to my email below to enquire whether you have considered the comments therein, and whether you need anything further from me to be able to complete and return the documents attached to that email and my subsequent emails of 29th January and 5th February?

In the meantime, Biovitrum have also asked me to forward the following additional documents to you (copies attached), and to request that you complete them and return them to me:

US Patent Application No. 61/022,933: Assignment (BV-1154);

US Patent Application No. 10/586,558 (US National Phase of WO 2005/070947): Declaration, and Assignment (BV-1092) - please note that the Assignment needs to be signed and dated in the presence of two witnesses who must also sign and date the document.

I look forward to hearing from you.

Yours sincerely,

Dr Neil Thornton  
Partner

Reddie & Grose  
5 Shaftesbury Road  
Cambridge CB2 2BW  
United Kingdom

Tel. +44 (0)1223 360350  
Fax. +44 (0)1223 360280  
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# **EXHIBIT B**

**CONTRACT OF EMPLOYMENT AND STATEMENT OF TERMS AND  
CONDITIONS  
PURSUANT TO THE EMPLOYMENT RIGHTS ACT 1996**

Employer's name: Cambridge Biotechnology Limited ("the Company")  
Registered Office: 10 Wellington Street, Cambridge CB1 1HW  
Employee's Name: Jacqueline Ouzman  
Address: The Cottage, Musgrave Farm, Fen Ditton, Cambridge, CB5 8SZ  
Date of this Contract: 30th May 2002

In order to comply with the provisions of the Employment Rights Act 1996 ("the Act") this statement gives particulars of your terms of employment with the Company and certain other matters.

**DEFINITIONS**

In this Statement the following expressions have the following meanings:

**"the Board"** means the Board of Directors for the time being of the Company or any committee duly appointed by the Board of Directors

**"the Group"** means the Company and the Group Companies

**"Group Company"** means any holding company from time to time of the Company or any subsidiary from time to time of the Company or of any such holding company (other than the Company) (for which purpose the expressions "holding company" and "subsidiary" shall have the meanings ascribed thereto by section 736 of the companies Act 1985)

**1. COMMENCEMENT OF EMPLOYMENT**

- 1.1 Your employment under this contract commences on 1 August 2002.
- 1.2 Your period of continuous employment with the Company for statutory purposes commences on 1 August 2002.
- 1.3 No employment with a previous employer counts as part of your period of continuous employment with the Company.
- 1.4 The first 6 months of the Employment will be a probationary period. During this period your performance and conduct will be monitored. At the end of the probationary period your performance will be reviewed and if found satisfactory your appointment will be confirmed.



**13. INVENTIONS AND OTHER INTELLECTUAL PROPERTY**

- 13.1 The parties foresee that you may make inventions or create other industrial or intellectual property in the course of your duties under this Statement and agree that in this respect you have a special responsibility to further the interests of the Company and the Group Companies.
- 13.2 Any discovery, development, invention, or improvement, design, process, formula, information, computer program, copyright work, semi conductor or other topography, trade mark or trade name or get-up made, created, devised, developed or discovered by you during the continuance of your employment (whether capable of being patented or registered or not and whether or not made or discovered in the course of your employment) either alone or with any other person in connection with or in anyway affecting or relating to the business of any company in the Group or capable of being used or adapted for use therein or in connection therewith ("Works") shall forthwith be disclosed to the Company and shall (subject to sections 39 to 43 Patents Act 1977) belong to and be the absolute property of the Company or such Group Company as the Company may direct.
- 13.3 You, if and whenever required so to do by the Company shall at the expense of the Company or such Group Company as the Company may direct:
- 13.3.1 apply or join with the Company or such Group Company in applying for letters patent, registered design, trade mark or other protection or registration in the United Kingdom and in any other part of the world for any Works; and
- 13.3.2 execute all instruments and do all things necessary for vesting patents, registered design, trade marks or other protection or registration when obtained and all right title and interest to and in the same absolutely and as sole beneficial owner in the Company or such Group Company or in such other person as the Company may specify; and
- 13.3.3 sign and execute all such documents and do all such acts as the Company may reasonably require in connection with any proceedings in respect of such applications and any publication or application for revocation of such patents, unregistered designs, trade marks or other protection.
- 13.4 You hereby irrevocably and unconditionally waive all rights under Chapter IV Copyright, Designs and Patents Act 1988 and any other moral rights which you may have in the Works or in connection with your authorship of any existing or future copyright work in the course of your employment, in whatever part of the world such rights may be enforceable, including, without limitation:
- 13.4.1 the right conferred by section 77 of that Act to be identified as the author of any such work; and
- 13.4.2 the right conferred by section 80 of that Act not to have any such work subjected to derogatory treatment.
- 13.5 You hereby irrevocably appoint the Company to be your Attorney in your name and on your behalf to execute and do any such instrument or thing and generally to use your name for the purpose of giving to the Company the full benefit of

29/4/06



this clause. In favour of any third party a certificate in writing signed by any Director or by the Secretary of the Company that any instrument or act falls within the authority hereby conferred shall be conclusive evidence that such is the case.


- 13.6 Nothing in this clause shall be construed as restricting the rights of you or the Company under sections 39 to 43 Patents Act 1977.

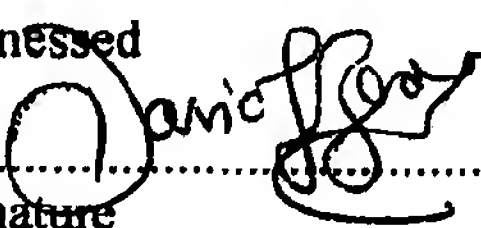
Director .....  
Signature ..... KLEE .....  
Print name

Director/Secretary  
for and on behalf of the Company  
.....  
Signature ..... RICHARDSON .....  
Print Name

I acknowledge that I have received a duplicate copy of this notice, have read and understood the same and agree to be bound by all the contractual terms contained in it.

29/4/00

  
.....  
Signed by

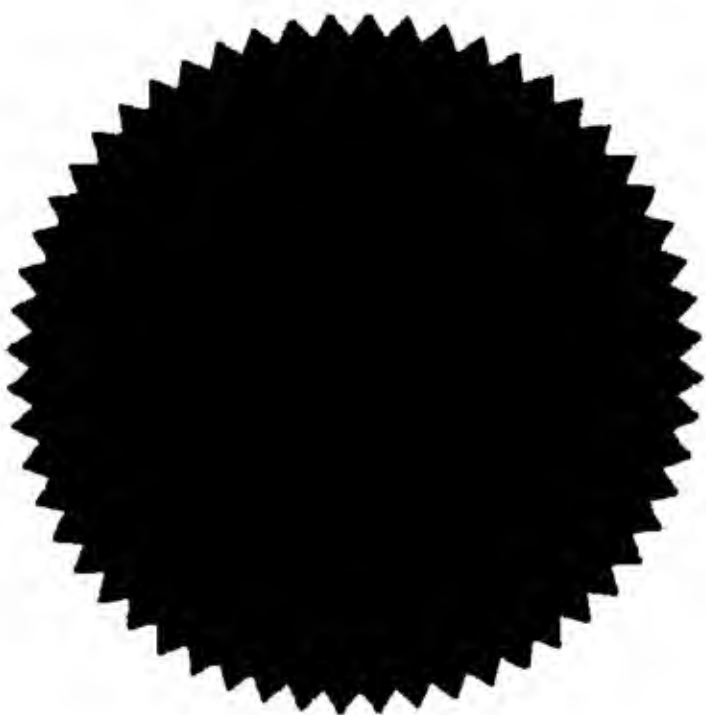
Witnessed  
  
Signature

DAVID BARDEN  
.....  
Print name

I JOHN DAVID HINDMARSH  
I HEREBY CERTIFY THAT  
THIS IS A TRUE COPY OF  
THE ORIGINAL PRODUCED  
TO ME THIS 29<sup>th</sup> DAY OF  
.....November.....2006

NOTARY PUBLIC

*J. H. Marsh*  
for ENGLAND & WALES. and (have placed my initials and seal on each of  
the 10 pages thereof



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DECLARATION OF NEIL THORNTON

1. I, Neil Thornton, am a partner at the firm of Reddie & Grose in Cambridge, England.

2. On November 1, 2007, at the request of Dr. Lars Höglund of Biovitrum AB, I spoke on the telephone with Dr. Jacqueline Ouzman. The topic of the conversation was patent documents that Dr. Höglund had forwarded to Dr. Ouzman and requested that she execute. Dr. Höglund had designated me to act as an intermediary to discuss the execution of the documents with Dr. Ouzman. The documents concern patent applications relating to invention(s) that were made during the course of Dr. Ouzman's employment by Cambridge Biotechnology Limited (a wholly-owned subsidiary of Biovitrum AB). In the telephone conversation of November 1, 2007, Dr. Ouzman requested that she be paid £400 for the execution of all of the documents she had received from Biovitrum AB.

3. On November 13, 2007, after having consulted with Dr. Höglund about Dr. Ouzman's request for compensation, I informed Dr. Ouzman that Biovitrum AB was unwilling to pay the requested amount for execution of the documents. It is my understanding that no compensation should be required for execution of the documents because such execution is an obligation attached to Dr. Ouzman's former employment by Cambridge Biotechnology Limited. Dr. Ouzman has to date been unwilling to sign the documents without payment of a fee.

**CERTIFICATE OF MAILING BY EFS-WEB FILING**

I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: January 05, 2009

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4. The present application is the U.S. national phase of international application number PCT/GB2005/000183, filed on January 19, 2005. The PCT application published as publication number WO2005/070947 on August 4, 2005. On April 13, 2008, I caused a copy of publication number WO2005/070947 to be sent to Dr. Ouzman by email. A copy of my email is enclosed as Exhibit A. The enclosures with my email to Dr. Ouzman included a complete copy of WO2005/070947, including the claims (the application as filed did not contain drawings), as well as a Combined Declaration and Power of Attorney and an Assignment for Dr. Ouzman's signature. Dr. Ouzman has to date not replied to my request for this application. This non-response is consistent with her previous unwillingness to sign (without payment of a fee) other patent documents relating to work performed while employed by Cambridge Biotechnology Limited.

5. I hereby declare that all statements made herein are true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Date: January 5<sup>th</sup>, 2009

By: Neil Thornton  
Neil Thornton